TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1888.

No. ~~1459~~. 1056

JAMES P. COOPER, PLAINTIFF IN ERROR,

vs.

THE STATE OF VIRGINIA.

IN ERROR TO THE SUPREME COURT OF APPEALS OF THE STATE OF VIRGINIA.

FILED DECEMBER 26, 1888.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, DECEMBER 27, 1888.

1 VIRGINIA:

Pleas before the supreme court of appeals held in the city of Richmond on Thursday, the 6th of December, 1888.

Be it remembered that heretofore, to wit, on the 30th of July, 1888, came James P. Cooper, by counsel, and filed his petition praying for a writ of error and supersedeas to a judgment rendered by the circuit court of the city of Richmond on the 7th day of July, 1888; which petition, with the transcript of the record accompanying the same, is as follows:

Petition.

In the Supreme Court of Appeals of Virginia, Richmond.

COOPER *vs.* COMMONWEALTH.

To the honorable judges of the supreme court of appeals of Virginia:

Your petitioner, James P. Cooper, respectfully represents that he is aggrieved by a judgment pronounced against him on the 7th day of July, 1888, in the circuit court of the city of Richmond. Your petitioner presents herewith a transcript of the record of said judgment, which shows the following case:

Your petitioner tendered the State's coupons in payment of his taxes, which were refused, and a suit was then brought against him for said taxes. At the trial the court ruled out all of petitioner's evidence, and a verdict was found against him. Your petitioner assigns this action of the court as error, and he prays for a writ of error and reversal of said judgment.

PETITIONER,
By Counsel.

I am of opinion that the judgment complained of in the foregoing petition is erroneous and should be reversed.

WM. L. ROYALL,
Counsel Practising in the Supreme Court of Appeals of Virginia.

Writ of error awarded with supersedeas. Bond required in the penalty of $100, conditioned as the law directs.

July 30, 1888.

B. W. LACY.

To the clerk of the court of appeals at Richmond, Va.

2 *Transcript of Record.*

VIRGINIA:

In the circuit court of the city of Richmond the following proceedings were had:

Be it remembered that at a circuit court of the city of Richmond,

held at the court-room thereof, in said city, in building No. 1007 Main street, on Monday, the 6th day of February, 1888:

THE COMMONWEALTH OF VIRGINIA *against* JAMES P. COOPER, Def't.

Upon a motion for a judgment for $20.84 for taxes.

This day came S. B. Witt and Edmund Pendleton, Esquires, attorneys on behalf of the Commonwealth, and the defendant, being solemnly called, came not; whereupon, on the motion of the said attorneys on behalf of the Commonwealth, it is ordered that this motion be docketed.

Which motion, together with the return thereon, is in the words and figures following, to wit:

Motion and Return.

In the Circuit Court of the City of Richmond, Va.

To James P. Cooper:

Take notice that on the 6th day of February, 1888, in accordance with the statute in such cases made and provided, I shall move the judge of the circuit court of the city of Richmond for a judgment against you in favor of the Commonwealth of Virginia for the sum of $20.84, with interest thereon from the first day of May, 1887, till paid, that being the sum due by you to the said Commonwealth of Virginia for license taxes for transacting the business of a broker in said city from the first day of May, 1887, to the first day of June, 1887, and damages according to law and costs.

S. B. WITT,
EDM'D PENDLETON,
For the Commonwealth of Virginia.

Return.

"I acknowledge legal service of the within.

"A. B. GUIGON,
"*For J. B. Cooper.*"

And at another day, to wit, at a circuit court of the city of Richmond, held as aforesaid on Thursday, June the 7th, 1888—

This day came as well the Commonwealth's attorney, and
3 Edmund Pendleton, Esquire, attorneys on behalf of the Commonwealth, as the defendant, by his attorneys, and the defendant filed a special plea of tender in writing, accompanied with the coupons and cash therein alleged to have been tendered, to which said plea the Commonwealth replied; and thereupon came a jury, to wit, B. Samuel, J. J. Cordle, W. W. Webb, W. H. Crew, W. E. Johnson, W. J. Gentry, Louis C. Ellett, E. D. Eacho, Temple King, W. C. Tyler, W. G. Harvey, and John W. Dennis, being selected by

lot and sworn, except W. H. Crew and John W. Dennis, who solemnly affirmed the truth to speak on the issue joined in this motion; and, having heard the evidence, upon their oaths returned a verdict in the words and figures following, to wit: "We, the jury, on the issue joined, find for the Commonwealth the sum of twenty dollars and eighty-four cents, with interest thereon from the first day of May, 1887, till this day."

Whereupon the defendant moved the court to set aside said verdict and grant him a new trial; which motion the court, for reasons stated in writing and filed with the papers in the motion of the Commonwealth against A. O. Bell, overruled.

Therefore it is considered by the court that the Commonwealth recover against the said defendant the amount ascertained by the jury in their verdict aforesaid, with interest thereon, to be computed after the rate of six per centum per annum, from the first day of May, 1887, to the 7th day of June, 1888, and with interest on the aggregate amount thereof from this day until paid, and the costs of this proceeding.

MEMORANDUM.—The defendant, by his attorneys, this day excepted to sundry opinions of the court given against him on the trial of this motion, and tendered to the court sundry bills of exceptions, which were received by the court, signed, and sealed and ordered to be made a part of the record of said trial.

The plea of tender, in writing, referred to in the foregoing order is as follows:

Plea.

VIRGINIA:

JAMES P. COOPER *ads.* THE COMMONWEALTH OF VIRGINIA.

And for a plea in this behalf the defendant says that the plaintiff ought not to maintain her action against him, because he says that prior to the notice of motion herein made, to wit, on the first day of May, in the year 1887, and when the taxes therein mentioned became due and payable, he was ready and willing to pay the same, and he then tendered to the plaintiff in payment of said taxes coupons from bonds Nos. 2133 and 4252, to wit, one coupon for $15 from bond No. 2133 and one coupon for $3 from bond No. 4252, and
4 two dollars and eighty-four cents of current money of the United States, aggregating the sum of $20.84, to receive which of the defendant the said plaintiff then wholly refused; and the defendant always hitherto hath been ready and willing and still is ready and willing to deliver the said coupons and money to the plaintiff in payment of said tax; and he brings the said sum of money now into court and files with this his plea the said coupons tendered as aforesaid, which he is still ready to pay and turn over to the plaintiff; and the said defendant avers that the said coupons were cut from bonds issued by said plaintiff under her funding act of 1871, and the same were overdue and past maturity and bore

upon their faces the contract of the plaintiff that they would be received in payment of all taxes, debts, and demands due to her.

And this he is ready to verify.

WM. L. ROYALL, *P. D.*

Bills of exceptions referred to in the foregoing order are in the words and figures following, to wit:

Defendant's Bills of Exceptions.

Circuit Court of the City of Richmond.

COMMONWEALTH OF VIRGINIA *vs.* JAMES P. COOPER.

Bill of exceptions.

Be it remembered that on the trial of this case the Commonwealth, to maintain the issue upon her part, proved that the defendant was duly assessed with and owed to her the sum of $20.84 as taxes for the year 1887; and thereupon the defendant, to maintain the issue on his part, proved that on the 1st day of May, 1887, after said taxes were so due by him, he tendered to the proper collecting officer in payment of his said taxes the coupons and current money set out and described in his plea of tender, which coupons purported on their faces to have been originally attached to bonds issued by the State of Virginia under the provisions of her act of Assembly approved March 30th, 1871, and each of said coupons was overdue and past maturity, and each one bore upon its face the following language: "Receivable at and after maturity in payment of all taxes, debts, and demands due the State;" which said coupons and money said collecting officer refused to receive, and defendant offered said coupons and money in evidence, and they were received in evidence. The defendant then proved that he bought said coupons in the open market in London, England. Defendant then proved that he did not own the bonds from which said coupons had been cut, and that he did not know who owns them or where they are, and that he knows of no clew by which he can ascertain who owns them.

5 The plaintiff then called upon the defendant to produce the bonds from which said coupons were detached, to which defendant replied that he was unable to produce them.

Thereupon defendant offered to prove that the State of Virginia issued and put out, by authority of said act of March 30th, 1871, bonds numbered serially as said coupons are numbered, and that said bonds when issued bore interest coupons, receivable in payment of the State's taxes, which were printed from an engraved plate and not signed manually.

But the Commonwealth objected to the defendant being allowed to prove these facts on the ground that no foundation had been laid for the introduction of secondary evidence, and the court sustained her objections against defendant's claim that the laws of Virginia

which exclude this evidence are repugnant to section ten of article one of the Constitution of the United States; and defendant excepted to said ruling of the court and tendered this his first bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Defendant's Second Bill of Exceptions.

COMMONWEALTH OF VIRGINIA *vs.* J. P. COOPER.

Be it remembered that on the trial of this case, after the evidence had been introduced which is set out in defendant's first bill of exceptions which is hereby referred to and made a part of this, defendant introduced a witness, one Seaton G. Tinsley, who testified that he had been for sixteen years deputy treasurer of the city of Richmond, Virginia, and then was, and as such it was his duty to collect the taxes due said State; that during that time he had received more than three millions of dollars of the State of Virginia's coupons in payment of her taxes, all of which had been received from him by the auditor of the State in the settlement of his accounts, and no one of which had ever been challenged as counterfeit, and he had never heard any one claim that any coupon reported to be one of the State's coupons was either counterfeit or spurious; thereupon the defendant, by counsel, asked the witness the following question: "Have you seen and handled a sufficient number of the State of Virginia's tax-receivable coupons to constitute you, in your opinion, an expert for determining whether any given coupon is one issued by said State or a counterfeit of the same?" To the asking of which question the State of Virginia objected, and the court sustained her objection upon the ground that no sufficient foundation had been laid for secondary evidence against the defendant's claim that the law of Virginia which forbade him to ask said question was a law forbidding him to prove the genuineness
6 of her coupons by the testimony of experts, and that it was therefore repugnant to section 10 of article 1 of the Constitution of the United States and to the fourteenth article of amendment to the same; and the defendant excepted to the said rulings of the court and tendered this his second bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Defendant's Third Bill of Exceptions.

COMMONWEALTH OF VIRGINIA *vs.* J. P. COOPER.

Be it remembered that after the facts had been proved that are set out in the defendant's first and second bills of exceptions, which are hereby referred to and made a part of this, the court, on motion of the Commonwealth, instructed the jury as follows: "In the absence of any evidence to prove the genuineness of the coupons alleged to have been tendered by the defendant, the jury are instructed

that they should find for the Commonwealth on the plea of tender," against defendant's claim that the law of Virginia which authorizes and requires the court to give said instructions is repugnant to section 10 of article 1 of the Constitution of the United States; and thereupon defendant excepted to the action of the court in giving said instruction and tendered this his third bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Defendant's Fourth Bill of Exceptions.

COMMONWEALTH OF VIRGINIA *vs.* J. P. COOPER.

Be it remembered that on the trial of this cause, after the court had given the instruction to the jury set out in defendant's third bill of exceptions, which is hereby referred to and made a part of this, defendant moved the court to instruct the jury that the production before them of the coupons filed with his plea of tender and offered in evidence as it is set out in defendant's first bill of exceptions, which is hereby referred to and made a part of this, is *prima facie* evidence that they are the genuine coupons of the State of Virginia, cut from bonds issued by her proper officers, but the court refused to instruct the jury as prayed against the claim of the defendant that the laws of Virginia which deny to said coupons the
7 effect of *prima facie* evidence are repugnant to section ten of article one of the Constitution of the United States; to which action of the court in refusing to give said instruction the defendant excepted and tenders this his fourth bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Defendant's Fifth Bill of Exceptions.

COMMONWEALTH OF VIRGINIA *vs.* J. P. COOPER.

Be it remembered that on the trial of this case, after the court had refused to give the instruction to the jury set out in defendant's fourth bill of exceptions, which is hereby referred to and made a part of this, defendant, by counsel, moved the court to amend the instruction given by it to the jury as set out in defendant's third bill of exceptions, which is hereby referred to and made a part of this; whereupon the court stated to defendant's counsel in the presence of the jury that he considered the language of the instruction given to be abundantly plain to show that in this case the court intended to instruct the jury that there is no evidence before them upon which they could find a verdict that the coupons filed with the defendant's plea are genuine. Thereupon defendant's counsel offered to argue to the jury that there is sufficient evidence before them that said coupons are genuine to warrant them in finding a verdict to that effect, but the court refused to allow the counsel so to argue against his claim; that in so doing the court was giving force and effect to

a law of Virginia repugnant to section 10 of article 1 of the Constitution of the United States, and defendant excepted to the court's ruling and action in that behalf and tendered this his fifth bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Defendant's Sixth Bill of Exceptions.

COMMONWEALTH OF VIRGINIA *vs.* J. P. COOPER.

Be it remembered that on the trial of this case, after the jury had found their verdict and it had been recorded, the defendant moved the court to set the same aside and grant him a new trial on the ground that said verdict is contrary to the law and the evidence, and the court certifies that all the evidence in the case is set out in defendant's first and second bills of exceptions, which are hereby referred to and made a part of this; but the court, for reasons
8 in writing filed in the papers and made a part of the record, refused to set the same aside and grant him a new trial against defendant's claim that in doing so the court was giving force and effect to a law of Virginia repugnant to section 10 of article 1 of the Constitution of the United States and to the fourteenth article of amendment to the same, and the defendant excepted to said ruling and action of the court, and tendered this his sixth bill of exceptions, which is signed, sealed, and enrolled.

B. R. WELLFORD, JR. [SEAL.]

Coupons referred to in the foregoing bills of exceptions are left out of this record by direction of counsel for defendant.

A. S.

The following is a copy of the opinion of the court referred to:

COMMONWEALTH OF VIRGINIA *vs.* A. O. BELL.

FEBRUARY 17, 1888.

The motion to set aside the verdict in this cause brings up for review all the proceedings during the trial of the case, and if any error of the court was committed in these proceedings to the prejudice of the defendant, an opportunity is now offered to repair the wrong. The only possible error must have been either in the exclusion of the testimony offered by the defendant or in the action of the court in the matter of instruction to the jury.

Now, supposing the exclusion of evidence was right, can there be any reasonable suggestion of error as to the instructions of the court? As the case stood before the jury there was clearly no evidence to prove the genuineness of the coupons tendered to the treasurer. The agent of the defendant who made the tender testified that he bought the bonds of Mr. J. P. Cooper, and that Mr. Cooper had on several occasions told him that he did not know who had the bonds from which these coupons were taken, and, of course, if Mr. Cooper had

been here he could not have said that he knew that these bonds had been executed or delivered by the officers of Virginia.

This was the situation of the cause before the jury. It was manifestly impossible for any intelligent jury to find that the coupons were genuine, and when the court was required, by application from both parties to the cause, to instruct the jury, no other instruction could have been given than that which was given, that in the absence of any testimony to sustain the plea the jury should find for the Commonwealth. I think, further, that there was no error in the exclusion of evidence. The defendant had laid no foundation for the introduction of secondary evidence. It appeared from his own testi-
9 mony that these alleged coupons were bought from Mr. J. P. Cooper, an Englishman, who came here for the purpose, as stated, of selling these coupons, and who gave the defendant at the time of sale a written guarantee. Mr. Cooper, therefore, is the substantial defendant. He has the same name with the plaintiff in the case of Cooper *vs.* Marye, in the United States circuit court for Virginia, in which suit he asked an injunction to forbid the State of Virginia from prosecuting these suits.

The testimony of the defendant shows that he was in this city and did not return home until the Supreme Court of the United States in the case of *Ex parte* Ayres, &c., had affirmed the constitutionality of the law requiring the officers of the Commonwealth to bring their suits, and that he left shortly thereafter. He is the substantial defendant in this case. He has full warning that this suit would be brought and that the production of the bonds would be called for.

If these coupons were genuine he ought to be able easily to find the holder of the bond and to produce it here or to give evidence of his diligence in the effort to do so. He had full and timely warning of the necessity, and there was not one word of evidence to account for his default. Under these circumstances it was impossible for the court to hold that the defendant had exercised proper diligence. Without any proof of the loss or destruction of the bonds and without any proof of proper diligence to procure its presence before the court, I did not think that any foundation was laid for the introduction of secondary evidence under the law as it existed when these bonds were originally issued or as it exists to-day.

I am of the same opinion now, and the motion to set aside the verdict must be overruled.

Transcript of the record.

Fee, $5.00.

Teste: ALFRED SHEILD, *Clerk.*

A copy.

Teste: GEO. K. TAYLOR, *C. C.*

10 And now at this day, to wit, at a supreme court of appeals, held at the State court-house, in the city of Richmond, on Thursday, the 6th of December, 1888, came again as well the plaintiff in error, by his counsel, as the attorney general on behalf of the

Commonwealth, and the court, having maturely considered the transcript of the record of the judgment aforesaid and the arguments of counsel, is of opinion, for reasons stated in writing and filed with the record, that there is no error in the said judgment. It is therefore considered that the same be affirmed, and that the Commonwealth recover against the plaintiff in error damages according to law, and also her costs by her about her defense herein expended, which is ordered to be certified to the said circuit court of the city of Richmond.

The following is a copy of the opinion of the court:

11 *Opinion.*

COOPER *v.* THE COMMONWEALTH.

LACY, *J.:*

This is a writ of error to a judgment of the circuit court of the city of Richmond on the 7th day of July, 1888.

This was an action by the Commonwealth under the act of May 12th, 1887, providing for the recovery by motion of taxes and certain debts due the Commonwealth, for the payment of which papers purporting to be genuine coupons of the Commonwealth have been tendered.

This act is claimed to be unconstitutional, as being repug-
12 nant to the provisions of the first section of article ten of the Constitution of the United States.

The constitutionality of the act was maintained by the circuit court, and in this there is no error.

Ex parte Ayres, 123 U. S. R., 443, where the constitutionality of this act was maintained by the Supreme Court of the United States.

And also that the circuit court maintained the validity of the acts January 21st, 1886, amending and re-enacting section 39 of chapter 167 of the Va. Code 1873 in relation to rules, pleadings, and
13 evidence and, of January 26th, 1886, entitled An act to prescribe a rule of evidence in certain cases, but there is no error in this ruling of the circuit court, the same being in accordance with the ruling of this court in the case of Commonwealth *v.* Weller & Sons, 82 Va., 721, and the case Cornwall *v.* Commonwealth; *id.*, 646.

Upon the whole case we are of opinion that there is no error in the judgment of the circuit court appealed from, and the same is affirmed.

A true transcript of the record.
Teste: GEO K. TAYLOR, *C. C.*

Fee for this transcript, $3.25.
Teste: GEO. K. TAYLOR, *C. C.*

14 STATE OF VIRGINIA, } *To wit:*
City of Richmond, }

I, George K. Taylor, clerk of the supreme court of appeals of

Virginia, at Richmond, do hereby certify that the foregoing is a true transcript of the record and proceedings upon a writ of error lately pending in said court, in which James P. Cooper was plaintiff in error and The Commonwealth of Virginia was defendant in error

In testimony whereof I hereto set my hand and annex the seal of the said court this 21st day of December, 1888.

[Seal Supreme Court of Appeals of Virginia, Richmond.]

GEO. K. TAYLOR, *Clk.*

15 To the judges of the Supreme Court of the United States:

Your petitioner, James P. Cooper, respectfully represents that he owed the State of Virginia the sum of $20.84 as taxes for the year 1887–'88; that he tendered her proper collecting officer in payment thereof in due time eighteen dollars of coupons and two dollars and eighty-four cents in lawful money of the United States, the two together constituting all of said State's claim; that said tender was refused; that thereafter said collecting officer reported said tender and refusal to the attorney for the Commonwealth of Richmond city; that said coupons were clipped from bonds issued by the State of Virginia under provisions of acts of her General Assembly, and bore upon their faces the contract of said State that they would be received in payment of all taxes, debts, and demands due to her, and they were overdue and past maturity; that

16 after said report to said Commonwealth attorney he instituted a suit in the circuit court of the city of Richmond, in the name of the State of Virginia, against your petitioner for said sum of $20.84 in the name of the State of Virginia under the provisions of the act of May 12th, 1887; that your petitioner appeared and pleaded that he had tendered said coupons and money in payment of said taxes, and at the trial he proved that he did not own the bonds from which said coupons were clipped, and he did not know where the same were, and he offered to prove them genuine by the testimony of expert witnesses, but the court ruled that he could not prove them genuine unless he produced the bonds from which they came, against petitioner's claim that the laws of Virginia which required him to produce said bonds and refused him permission to prove them genuine by the testimony of experts were repugnant to the Constitution of the United States. Thereupon the jury found a verdict against your petitioner and judgment was rendered

17 against him. Your petitioner appealed to the supreme court of appeals for the State of Virginia, which affirmed said judgment; all which will appear by a certified copy of the record of said cause presented herewith. Your petitioner now prays a writ of error to said judgment of said supreme court of appeals and a reversal of said judgment.

PETITIONER,
By WM. L. ROYALL,
His Attorney.

[Endorsed:] Petition for writ of error. Cooper *vs.* Commonwealth.

18 *Assignment of Errors.*

JAMES P. COOPER *v.* THE STATE OF VIRGINIA.

Plaintiff in error assigns for error—

First. The action of the circuit court of the city of Richmond, affirmed by the supreme court of appeals of said State, in refusing to allow him to prove that the State of Virginia issued and put out bonds numbered serially as his coupons were numbered, as certified in his first bill of exceptions.

Second. The action of the circuit court of the city of Richmond, affirmed by the supreme court of appeals of the State of Virginia, in refusing to allow him to ask the witness, Seaton G. Tinsley,
19 the question certified by the court in his second bill of exceptions.

Third. The action of said circuit court, affirmed by said supreme court, in giving the jury the instructions certified in his third bill of exceptions.

Fourth. The action of said circuit court, affirmed by said supreme court, in refusing to instruct the jury that the production before them of said coupons was *prima facie* evidence of their genuineness, as certified in his fourth bill of exceptions.

Fifth. The action of said circuit court, affirmed by said supreme court, in refusing to allow his counsel to argue to the jury that there was sufficient evidence before them to warrant them in finding a verdict that said coupons were genuine, as certified in his 5th bill of exceptions.

20 Sixth. The action of the court, affirmed by said supreme court, in refusing to set aside the verdict and grant him a new trial, as certified in his sixth bill of exceptions.

PLAINTIFF IN ERROR,
By his attorney, WM. L. ROYALL.

[Endorsed:] Cooper *v.* Commonwealth. Assignment of error.

21 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the supreme court of appeals of the State of Virginia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of appeals, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between James P. Cooper, plaintiff in error, and The State of Virginia, defendant in error, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of or an authority exercised under said State on the ground of their being repugnant to the Constitution, treaties, or laws of the United

States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the Con-
22 stitution or of a treaty or statute of or commission held under the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said plaintiff in error, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the said Supreme Court, the seventeenth day of December, in the year of our Lord one thousand eight hundred and eighty-eight.

[Seal of the Supreme Court of the United States.]

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

Allowed by—
JOHN M. HARLAN,
Justice Sup. C't U. S.

23 VIRGINIA:

In the clerk's office of the supreme court of appeals of Virginia, at Richmond, December 21st, 1888.

I, George K. Taylor, clerk of the supreme court of appeals of Virginia, at Richmond, do hereby certify that a copy of the within writ is on file in my office.

Given under my hand this 21st December, 1888.

GEO. K. TAYLOR, *Clk.*

24 The United States of America to the State of Virginia, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the supreme court of appeals of the State of Virginia, wherein James P. Cooper is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ

of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable John M. Harlan, associate justice of the Supreme Court of the United States, this seventeenth day of December, in the year of our Lord one thousand eight hundred and eighty-eight.

JOHN M. HARLAN,
Justice Sup. C't U. S.

25 On this 21st day of December, in the year of our Lord one thousand eight hundred and eighty-eight, personally appeared Wm. L. Royall before me, the subscriber, a notary public for the city of Richmond, Virginia, in my said city, and makes oath that he delivered a true copy of the within citation to Fitzhugh Lee, Governor of Virginia, and one to R. A. Ayers, attorney general of Virginia, on the 20th day of December, 1888.

WM. L. ROYALL.

Sworn to and subscribed the 21st December, 1888.

A. B. GUIGON, *N. P.*

VIRGINIA:

In the clerk's office of the supreme court of appeals of Virginia, at Richmond, December 21, 1888.

I, George K. Taylor, clerk of the supreme court of appeals of Virginia, at Richmond, do hereby certify that a copy of the within citation is on file in my office.

Given under my hand this 21st December, 1888.

GEO. K. TAYLOR, *Cl'k.*

26 Know all men by these presents that we, James P. Cooper and William L. Royall, are held and firmly bound unto the State of Virginia in the just and full sum of five hundred dollars, to be paid to the said State of Virginia, certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally by these presents. Sealed with our seals and dated this twelfth day of December, in the year of our Lord one thousand eight hundred and eighty-eight.

Whereas lately, at a supreme court of appeals for the State of Virginia, in a suit depending in said court between James P. Cooper, plaintiff in error, and The State of Virginia, defendant in error, a judgment was rendered against the said James P. Cooper, and the said James P. Cooper having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said State of Virginia citing and admonishing her to be and appear at a Supreme Court of the United States to be holden at Washington on the second Monday of October next: